

REMARKS

Claims 1-54 were previously pending in this application. Applicants respectfully request reconsideration of the instant application in view of the foregoing amendments and/or the following remarks. No claims have been amended herein, and Applicants submit that no new matter has been added by way of this Response. Claims 1-54 are currently pending.

Rejections under 35 U.S.C. § 103

Claims 1, 2, 4-6, 21, 22, 30, 31, 39 and 40 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Cooley, U.S. Patent Application no. 2003/0055979 (hereinafter, "Cooley") in view of Jinmei et al., U.S. Patent Application no. 2005/0076139 (hereinafter, "Jinmei") and in further view of Yip et al., U.S. Patent no. 6,980,550 (hereinafter, "Yip") and in further view of Liston, U.S. Patent Application no. 2004/0103314 (hereinafter, "Liston"); claims 3 and 7 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cooley in view of Jinmei and in further view of Yip and in further view of Liston and in further view of Hamzy et al., U.S. Patent no. 6,941,368 (hereinafter, "Hamzy"); claims 8-11, 13-20, 23-26, 28, 29, 32-35, 37, 38, 41-45 and 47-54 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cooley in view of Jinmei and in further view of Yip and in further view of Liston and in further view of Chari et al., U.S. Patent Application no. 2004/0019781 (hereinafter, "Chari"); and claims 12, 27, 36 and 48 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cooley in view of Jinmei and in further view of Yip and in further view of Liston and in further view of Chari and in further view of Griffiths et al., U.S. Patent no. 6,286,045 (hereinafter, "Griffiths"). Applicants respectfully traverse these rejections and submit that a *prima facie* showing of obviousness has not been established and that the applied references, taken alone or in

combination, do not discuss or render obvious every element of each pending claim.

MPEP § 706.02(j) prescribes that a *prima facie* showing of obviousness under 35 U.S.C. § 103 should set forth:

- (i) the relevant teachings of the prior art relied upon,
- (ii) the differences in the claim over the applied references,
- (iii) the proposed modification of the applied references to arrive at the claimed subject matter, and
- (iv) an explanation as to why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made.

Applicants submit that the rejections in the pending Office Action do not establish at least the first two requirements, the relevant teachings of the prior art relied upon, as well as the differences in the claim over the applied references.

Independent claim 1 recites, *inter alia*,

A processor-implemented method of detecting unauthorized access attempts to a network, comprising:
...
detecting an unauthorized attempt to access said address when an attempted address corresponds to an unused one of said block of substitute addresses.

Applicants submit that at least these elements recited in independent claim 1 are not discussed or rendered obvious by the applied references, taken alone or in combination. The pending rejection alleges, "Liston teaches ... detecting unauthorized attempts when the request corresponds to an unused address (see paragraph [0031])" (October 9, 2009 Office Action, p. 3, § 4). Applicants submit that Liston's system detects unauthorized users by determining whether a communication is directed to an actual IP address, and not "an unused one of said block of substitute addresses," as recited in claim 1. Liston's system creates virtual machines to occupy actual IP addresses (that are not in use by primary resources) within a local computer network and then detects unauthorized users as those attempting to access those IP

addresses connected to the virtual machines (see Liston, paragraphs 0030-0031). Nowhere does Liston discuss, nor does Liston's system ever employ, "substitute addresses" or any "block of substitute addresses," as recited in independent claim 1. This distinction is further highlighted by the fact that a data packet sent to an "unused" IP address in Cooley's system will actually reach a destination (i.e., the virtual machine linked to that address), while a data packet sent to "an unused one of said block of substitute addresses," as recited in independent claim 1, would not.

Applicants further submit that the other applied references fail to remedy the deficiencies identified above with regard to Liston in reference to independent claim 1 and that, even *in arguendo*, if the applied references could be combined, they would not yield the elements of independent claim 1.

The MPEP prescribes that, "when evaluating the scope of a claim, *every limitation in the claim must be considered*," [§ 2106 II(C), emphasis added] and, "*All words in a claim must be considered in judging the patentability of that claim against the prior art*." [§ 2143.03, emphasis added]. Inasmuch as the applied references, taken alone or in combination, fail to discuss or render obvious at least "detecting an unauthorized attempt to access said address when an attempted address corresponds to an unused one of said block of substitute addresses," Applicants submit that a *prima facie* showing of obviousness has not been established and respectfully request reconsideration and withdrawal of this basis of rejections. Should the Examiner maintain the rejection, Applicants respectfully request clarification as to how and specifically where the applied references allegedly discuss "detecting an unauthorized attempt to access said address when an attempted address corresponds to an unused one of said block of substitute addresses," as recited in independent claim 1.

Applicants further submit that the pending rejection has failed to properly set

forth the differences in the claims over the applied references and to explain why the claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made by failing to provide sufficient objective rationale for modifying the references and by not providing a discussion of the level of ordinary skill in the art.

Applicants submit that the pending rejection has not provided sufficient objective rationale for modifying the applied references. MPEP § 2141 (III) states, *inter alia*, "The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious," (emphasis added) and that, "there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Applicants submit that the pending rejection has relied upon general goals stated in the applied references as allegedly motivating the proposed modifications thereof. However, Applicants submit that the references themselves purport to achieve those goals and, consequently, the cited goals do not point beyond the references to the proposed modifications. Applicants submit that mere references to some stated goals of the applied references are, without more, insufficient to support the legal conclusion of obviousness. If it were sufficient, the Examiner could simply cobble together references ad infinitum in support of his obviousness rejection simply by pointing to some advantage recited in each new reference as allegedly motivating the addition of that new reference to the list of existing applied references. Instead, Applicants submit that the Examiner must go further to provide "clear articulation of the reason(s)" why the specific proposed modifications would have been obvious to one of ordinary skill in the art. Applicants submit that such a clear articulation should evince why the combination of why the combination of all of the applied references would have been obvious to one of ordinary skill in the art, not merely why the addition of one more reference to the stack of already-applied references would have been

obvious (MPEP 2141.02[I] "The claimed invention as a whole must be considered"). For example, with reference to the rejection of claim 1 in the October 9, 2009 Office Action where the Examiner has applied four references in support of the rejection, Applicants submit that sufficient objective rationale would constitute a "clear articulation of the reason(s)" why the combination of all four references would have been obvious to one of ordinary skill in the art, and Applicants submit that the citation of a general alleged advantage of each system (such as "load balancing" for Yip) is insufficient. Accordingly, Applicants submit that sufficient objective rationale for the proposed modification of the references has not been provided and respectfully request reconsideration and withdrawal of this basis of rejections. Should the Examiner maintain the rejection, Applicants respectfully request that he provide a "clear articulation of the reason(s)" why the specific modification of all applied references would have been obvious to one of ordinary skill in the art at the time of the invention in order to help Applicants better understand the Examiner's rejection and provide a complete reply at the earliest opportunity.

Applicants further submit that the pending rejection has failed to provide any indication of the level of ordinary skill in the art at the time of Applicants' invention. MPEP § 2141 (II)(C) states, "Any obviousness rejection should include, either explicitly or implicitly in view of the prior art applied, an indication of the level of ordinary skill." The pending rejection refers to, "a person of ordinary skill in the art," (see, e.g., October 9, 2009 Office Action, p. 3, § 4) but has provided no indication or discussion of which art is described or the level of ordinary skill alleged to be associated therewith. The rejection's reference to "the art" is overly general and, consequently, does not provide a specific indication of the level of ordinary skill pertinent to the claimed subject matter. MPEP § 2141.03 (III) states, "The importance of resolving the level of ordinary skill in the art lies in the necessity of maintaining

objectivity in the obviousness inquiry." As no indication of the level or ordinary skill has been provided, Applicants submit that the rejection has applied impermissible hindsight and has not established a *prima facie* showing of obviousness. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections. Should the Examiner maintain the rejection, Applicants respectfully request that he identify the pertinent art, discuss the level of ordinary skill alleged to be associated therewith at the time of the invention, and clarify why he believes the proposed modifications of the applied art would have been obvious to one possessing that level of skill.

Although of different scope than claim 1, Applicants submit that claim 21 is also patentable over the applied references, taken alone or in combination. For example, independent claim 21 recites, *inter alia*,

A computer-readable medium containing instructions for
controlling a processor to detect unauthorized access attempts to a
network by:

...

detecting an unauthorized attempt to access said address
when an attempted address corresponds to an unused block of
substitute addresses.

Applicants respectfully submit that at least these elements from independent claim 21 are not discussed or rendered obvious by the applied references, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Although of different scope than claim 1, Applicants submit that claim 30 is also patentable over the applied references, taken alone or in combination. For example, independent claim 30 recites, *inter alia*,

A system for detecting unauthorized access attempts to a network by:

...

means for detecting an unauthorized attempt to access said address when an attempted address corresponds to an unused block of substitute addresses.

Applicants respectfully submit that at least these elements from independent claim 30 are not discussed or rendered obvious by the applied references, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Although of different scope than claim 1, Applicants submit that claim 39 is also patentable over the applied references, taken alone or in combination. For example, independent claim 39 recites, *inter alia*,

A computer program, disposed on a compute-readable medium, for enabling detection of unauthorized access attempts to a network, said computer program including instructions for causing a processor to:

...

detect an unauthorized attempt to access said address when an attempted address corresponds to an unused block of substitute addresses.

Applicants respectfully submit that at least these elements from independent claim 39 are not discussed or rendered obvious by the applied references, taken alone or in combination, for at least similar reasons as those discussed above identifying deficiencies in the applied references with regard to independent claim 1. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Furthermore, Applicants submit claims 2-20, 22-29, 31-38 and 40-54, which are directly or indirectly dependent from independent claims 1, 21, 30 and 39, are also not discussed or rendered obvious by the applied references, taken alone or in combination, for at

least similar reasons as those discussed above identifying deficiencies in the applied references with regard to the independent claims. Nor do Hamzy, which describes enforcement of prerequisite resource serving, Chari, which describes a hash-based request routing scheme, or Griffiths, which describes intelligent control of information delivery over a network, remedy the deficiencies identified above with regard to the other applied references and the independent claims. Accordingly, Applicants respectfully request reconsideration and withdrawal of this basis of rejections.

Conclusion

In summary, Applicants submit that independent claims 1, 21, 30 and 39 are patentably distinct from the applied references, taken alone or in combination, for at least the reasons discussed above. Applicants submit that claims 2-20, 22-29, 31-38 and 40-54, which are directly or indirectly dependent from independent claims 1, 21, 30 and 39 respectively, are also distinct from the applied references, taken alone or in combination, for at least the reasons discussed above.

As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, ability to combine references, assertions as to patentability of dependent claims) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future. Furthermore, Applicants submit that the originally filed claims are directed to statutory subject matter. As such, Applicants reserve the right to pursue the originally filed claims in one or more continuation application(s). Accordingly, Applicants respectfully request

reconsideration/further examination of the instant application in view of the foregoing

Amendments/Remarks.

AUTHORIZATION

Applicant hereby authorizes and requests that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 19161-010. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicant requests that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicant hereby authorizes and requests that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 19161-010.

In the event that a telephone conference would facilitate examination of the application in any way, Applicant invites the Examiner to contact the undersigned at the number provided.

Respectfully submitted,

Chadbourne & Parke LLP

Dated: January 12, 2010

By: /Walter G. Hanchuk/
Walter G. Hanchuk
Registration No. 35,179

Chadbourne & Parke, L.L.P.
30 Rockefeller Plaza
New York, NY 10112
212-408-5100 Telephone
212-541-5369 Facsimile